

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

ELAINE CHAO, Secretary of)	
Labor, United States)	
Department of Labor,)	
)	
Plaintiff,)	4:07CV3050
)	
v.)	
)	
RICHARD A. KUCERA, d/b/a)	
KUCERA PAINTING,)	
)	
Defendant.)	
_____)	

CONSENT JUDGMENT

Plaintiff having filed her complaint for persons specifically named in Attachment A to the complaint and defendant having agreed to the entry of this judgment without contest, it is, therefore, upon motion of counsel for the plaintiff, and for cause shown:

ORDERED, ADJUDGED, and DECREED that defendant, his officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this judgment be, and each of them hereby is, permanently enjoined and restrained from violating the provisions of sections 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.), hereinafter called the Act, in any of the following manners:

I. Defendant shall not, contrary to sections 7 and 15(a)(2) of the Act, employ any of his employees in commerce or

in the production of goods for commerce, or in their enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than 40 hours without compensating such employee for his or her employment in excess of 40 hours per workweek at a rate not less than one and one-half times the regular rate at which he or she is employed.

II. Defendant shall not, contrary to sections 11(c) and 15(a)(5) of the Act, fail to make, keep and preserve adequate and accurate records of his employees, and of the wages, hours and other conditions and practices of employment maintained by him, as prescribed by the regulations issued, and from time to time amended, pursuant to section 11(c) of the Act (29 C.F.R. § 516). Defendant shall make such records available at all reasonable times to representatives of the Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that plaintiff shall recover from defendant the total sum of \$5,352.60 in unpaid minimum wages and overtime compensation for certain of defendant's employees and the sum of \$1,000 in Civil Money Penalties.

IT IS FURTHER ORDERED that defendant shall, within 30 days of the date of this judgment, deliver to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Midwest Region, P.O. Box 880906, Dallas, Texas 75388-0906, a check for \$5,352.60, made payable to "Wage

and Hour - Labor". Defendant shall furnish with the checks his federal tax identification number and the last known address for each employee named in the appendix attached hereto. Upon receipt of full payment from defendant, plaintiff's counsel shall file with the Court a certificate of payment and representatives of the plaintiff shall distribute such amounts less appropriate deductions for federal income withholding taxes and the employee's share of the social security (F.I.C.A.) tax to the employees or their legal representative as their interests may appear, in accordance with the provisions of section 16(c) of the Fair Labor Standards Act. Defendant remains responsible for the employer's share of F.I.C.A. arising from or related to the back wages distributed by plaintiff.

Any sums not distributed within a period of three years from the date of this judgment because of inability to locate the proper persons or because of such person's refusal to accept the sums sought to be distributed shall be deposited into the Treasury of the United States.

Defendant is further ordered to deliver, within 30 days of the date of this judgment, a certified or cashier's check made

payable to Wage and Hour-Labor, in the amount of \$1,000 for civil money penalties to U.S. Department of Labor, Wage and Hour Division, P.O. Box 2638, Chicago, Ill 60604.

Plaintiff waives her request for liquidated damages and the award of interest (prejudgment and post-judgment).

IT IS FURTHER ORDERED that each party shall bear his or its own costs, fees and other expenses incurred by such party in connection with any stage of this proceeding.

DATED this 6th day of July, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

Entry of this judgment
is hereby consented to:

By: s/Jerry L. Pigsley

Jerry L. Pigsley
Harding & Shultz
121 S. 13th St., Ste. 800
P.O. Box 82028
Lincoln, NE 68501-2028
(402) 434-3000

Attorney for Defendant

APPROVED:

By: s/Tobias B. Fritz
Tobias B. Fritz
MO Bar #28894
Attorney

1210 City Center Square
1100 Main Street
Kansas City, MO 64105-5148
(816) 426-6441
(816) 426-2500 (fax)

U.S. Department of Labor

Attorneys for Plaintiff

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